

Remarks

AN INFORMATION DISCLOSURE STATEMENT ACCOMPANIES THIS RESPONSE.

Claims 22-42 were the subject of the office action dated March 17, 2008. Claims 28 and 30 are canceled without prejudice in light of the clarifications made to claims 22 and 23.

Basis for the amendments / clarifications made to claims 22, 23, and 39 can be found in, for example, page 11, page 12 (lines 11-12), page 25 (lines 26 and 28), and Example 1, for example.

Claim 29 is amended to correct the terminology. *See* Example 2. (The prior spelling may have arisen because of an “auto-correct” feature of the word processor.)

Thus, claims 22-27, 29, and 31-42 are now presented for further consideration.

Claims 22-25 and 28-42 stand rejected under 35 USC §103(a) in view of Shuto or Kamm or Miyake in view of Redak.

Shuto relates generally to certain aromatic compounds and their use for controlling a variety of insects. Shuto does not teach or suggest application to female leafhoppers in diapause. Shuto likewise does not teach or suggest monitoring or sampling for females in this stage. Shuto does not teach or suggest treatment at this advantageous stage, and such advantages were not predictable.

The Abstract of Kamm clearly teaches that the tested juvenile hormone increases the number of eggs per females. Thus, Kamm teaches directly against the subject invention as claimed; one would not make the claimed applications if the expectation was that it would increase the number of eggs. This also shows that the subject invention as claimed was counterintuitive, and that the art taught away from the subject application.

Miyake is not cited as teaching application to females in diapause, and Miyake is thus not cited as teaching the step of sampling for a population of leafhoppers having females that are in diapause. Miyake is not cited as teaching or suggesting treatment at this advantageous stage, and such advantages were not predictable.

As stated in the Abstract of Redake, few (if any) of the products tested would be applicable to glassy-winged sharpshooters due to poor mortality, slow knock down activity, poor residual activity, and the like. Redake point to pyrethroids, chloronicotinyls, organophosphates, carbamates, and the like. Thus, Redake teaches away from the subject invention.

In light of the foregoing, the withdrawal of this rejection is respectfully requested.

Claims 26 and 27 stand rejected under 35 USC §103(a) as being obvious in view of Miyake and Ayoade. The applicants respectfully traverse this rejection.

Miyake is addressed above.

Ayoade et al. (1999) were studying leafhopper developmental physiology (particularly wing formation) and were not concerned with practical applications of reducing pest populations. It appears that specifically bred stocks of brown planthoppers were tested. Samples of (wild / natural) populations were not sampled and tested. The tests were completed by treating the nymphal stages at different earlier instars and then a second application to the treated individuals within 12 hours before they molted to the adult.

Ayoade reported various results and effects on various life stages and morphological development. Among those results were that the speed of female ovarian growth increased in macropters (individuals with fully developed wings; see Figure 6), but there was no effect on brachypters (winged flightless individuals; see Figure 5).

Thus, the results of Ayoade et al. (1999), like other art cited in the office action, also provide the opposite effect of what the subject applicants observed on glassy-winged sharpshooter - and thus what is now claimed. Ayoade treated the nymphs only, whereas we treated and observed the effect only on and within the adult female. Reading the Ayoade research would in no way stimulate one skilled in the art into thinking that the results of the subject patent application might be forthcoming. "You just can't get there from Ayoade et al."

In light of the foregoing, the withdrawal of this rejection is respectfully requested.

It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicants' agreement with or acquiescence in the Examiner's position. Applicants expressly reserve the right to pursue the invention(s) disclosed in the subject application, including

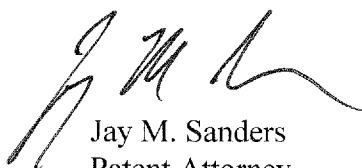
any subject matter canceled or not pursued during prosecution of the subject application, in a related application.

In view of the foregoing remarks and amendments to the claims, Applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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